

In Re: John Smotherman)
District 5, Map 73J. Group A, Control Map 73O,)
Parcel 17.03) Benton County
Tax years 2005, 2006)

1

On the Assessor's behalf, Mr. Ellis introduced a market analysis of the property in question that was prepared by one of his subordinates (Mark Volner). While acknowledging that most (if not all) of the selected comparables were topographically superior to the subject lot, Mr. Ellis noted that a 65% "condition factor" had already been applied to this property in recognition of the drainage problem. In his opinion, the current appraisal of \$32,500 per acre was best supported by the October, 2004 sale of 1.47-acre Parcel No. 05-073-077.01 (330 Highway 641 North) for \$100,000. That transaction included a building valued at \$27,200.

Tenn. Code Ann. section 67-5-601(a) provides (in relevant part) that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values...."

As the party seeking to change the present valuation of the subject property, the taxpayer has the burden of proof in this administrative proceeding. State Board Rule 0600-1-.11(1).

At one point during the hearing, Mr. Smotherman remarked that he did not know what the subject property was worth in its existing state. This forthright admission, coupled with his most recent asking price for the property, militates against any reduction of the disputed value. It is understood, of course, that this speculative land has yet to generate any income to the owner. The difficulty of quantifying an appropriate adjustment in a mass appraisal system for the condition of the lot is also recognized. However, the administrative judge cannot legitimately infer from the evidence of record that the Assessor's 35% deduction from the standard "unit land price" of \$50,000 per acre was insufficient. The only comparable sales introduced were those contained in DPA's report; and, even accepting the single contractor's estimate introduced by the appellant as an accurate measure of the cost of necessary site preparation, it begs the question of what this 2.5-acre lot on a major highway would sell for upon completion of such work.

Order

It is, therefore, ORDERED that the following values be adopted for tax years 2005 and 2006:

LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
\$81,300	\$0	\$81,300	\$32,520

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **"must be filed within**

thirty (30) days from the date the initial decision is sent.” Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or

2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 8th day of September, 2006.



PETE LOESCH
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

cc: John Smotherman
Linda Armstrong, Benton County Assessor of Property
Larry Ellis, CAE, Regional Supervisor, State Division of Property Assessments

SMOTHERMAN.DOC